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IN THE
Supreme Court of the United States

October Term, 1973

No. 73-362

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Supreme Court, U.S.
FILED

MAR 18 1974

ROGERS C. B. MORTON, MICHAEL RODAK, JR., CLERK
Secretary of the Interior, *et al.*,

Appellants,

and

AMERIND,

Intervenor-Appellant,

vs.

C. R. MANCARI, *et al.*,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

**MOTION FOR LEAVE TO FILE BRIEF AMICI
CURIAE AND BRIEF AMICI CURIAE**

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Of Counsel

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AMICI CURIAE**

The Montana Inter-Tribal Policy Board, the National Congress of American Indians and the National Tribal Chairmen's Association hereby respectfully move for leave to file the attached brief *amici curiae*. Counsel for appellants and for intervenor-appellant have consented to the filing of this brief, but counsel for appellees have declined to consent.

The Interest of *Amici Curiae*

The Montana Inter-Tribal Policy Board is a non-profit corporation representing the Indians living in the State of Montana. About 20,000 Indians live on or near the seven Montana Indian reservations which contain members of the following Indian Tribes: Assiniboiné, Blackfeet, Chippewa-Cree, Crow, Salish and Kootenai, Gros Ventre, Northern Cheyenne, and Sioux. Also, about 1500 "Landless Indians," primarily Metis, live in and around Great Falls. The purpose of the Inter-Tribal Policy Board is to develop programs "for the socio-economic advancement of Montana Indian residents."

National Congress of American Indians, Inc. is a non-profit association of ninety Indian tribes and numerous individuals. Its purpose is to promote the interests of American Indians. It was incorporated in Oklahoma in 1954 and its national headquarters is in Washington, D. C.

The National Tribal Chairmen's Association is a non-profit organization of all duly constituted chairmen, presidents, governors and chiefs of federally recognized Indian tribes, and the presidents of twelve Alaskan groups created by the Alaskan Indian Claims Settlement Act.

The court below held that the Indian Preference statutes, which require the Bureau of Indian Affairs to give preference to Indians in hirings, appointments to vacancies, promotions and reassignments within the Bureau, had been impliedly repealed by the Equal Employment Opportunity Act of 1972, and enjoined the Secretary of the Interior and the Bureau of Indian Affairs from implementing and enforcing a hiring policy consistent with the Indian Preference statutes. The *per curiam* decision is reported as *Mancari v. Morton*, 359 F. Supp. 585 (D. N. M. 1973).

The Montana Inter-Tribal Policy Board, the National Congress of American Indians and the National Tribal Chairmen's Association believe that the District Court erred in ignoring the long history of Indian Preference statutes and the special congressional responsibility for Indians. Instead, the court concluded that the preference statutes were repealed simply because "[t]here is nothing in the Committee Report or in House Report No. 92-238 [on the Equal Employment Opportunity Act], which would indicate that the Bureau of Indian Affairs be excepted from its provisions." 359 F. Supp. at 589.

This lawsuit, which raises an issue of vital importance to all American Indians, is essentially between non-Indians and the federal government. The Montana Inter-Tribal Policy Board, the National Congress of American Indians and the National Tribal Chairmen's Association request permission to file the attached brief *amici curiae* in support of appellants and intervenor-appellant herein.

Respectfully submitted,

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Dated: New York, New York
March 8, 1974

To: All Counsel for Appellants, Appellees,
and Intervenor-Appellant.